

MONTANA LEGISLATIVE HISTORY

Chapter 503 19 81

Bill H _____ S 229 Original bill & history X C

H. Committee on NATURAL RESOURCES S. Committee on NATURAL RESOURCES

Hearing Date(s) 3/26 X C

Hearing Date(s) 2/2 X C

3/28 X C

EXEC ACTION 2/13 X C

EXEC ACTION 4/13 X C

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Date Out _____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

3RD READING: 4/17, YEAS: 45; NAYS: 0

HOUSE

2ND READING: 4/21, YEAS: 86; NAYS: 1
ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/21, YEAS: 92; NAYS: 1

TRANSMITTED TO GOVERNOR: 4/23/81
ACTION: 4/29, SIGNED
CHAPTER 527

SB 222 -- KOLSTAD, M. ANDERSON, KEYSER, ET AL -- AMENDING 25-10-711 TO PROVIDE NEW STANDARDS FOR AWARDING COSTS TO A PARTY PREVAILING AGAINST THE STATE.

FISCAL NOTE: REQUIRED
INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/21
HEARING: 2/6
REPORT: 2/9, DO PASS AS AMENDED
2ND READING: 2/11, YEAS: 48; NAYS: 1
3RD READING: 2/13, YEAS: 50

TRANSMITTED TO HOUSE: 2/13
REFERRED TO COMMITTEE ON JUDICIARY: 2/14
HEARING: 3/11
REPORT: BE CONCURRED IN AS AMENDED, 3/26
2ND READING: 3/30 AS AMENDED, YEAS: 51; NAYS: 42
3RD READING: 3/31 YEAS: 45; NAYS: 52
BILL KILLED ON 3RD READING: 3/31

SB 223 -- BLAYLOCK -- AMENDING THE DEFINITION OF "MOTOR VEHICLE WRECKING FACILITY" CONTAINED IN 75-10-501.

FISCAL NOTE: REQUIRED
INTRODUCED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 1/21
HEARING: 2/5
REPORT: 2/13, DO NOT PASS -- YEAS: 36; NAYS: 12 -- KILLED

SB 224 -- RYAN -- PROVIDING A CIVIL REMEDY FOR CONSTITUTIONAL SEARCH AND SEIZURE VIOLATIONS AND ALTERING THE EXCLUSION OF EVIDENCE RULE...

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/21
HEARING: 2/9
FAILED TO MEET TRANSMITTAL DEADLINE: 2/25 -- DIED

SB 225 -- TVEIT -- REPEALING 69-5-106 RELATING TO ELECTRIC SERVICE TO INDUSTRIAL OR COMMERCIAL PREMISES.

INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND
INDUSTRY: 1/21
FAILED TO MEET TRANSMITTAL DEADLINE: 2/25 -- DIED

SB 226 -- SEALY -- AMENDING 39-51-204 TO EXCLUDE CERTAIN TREE-THINNING CONTRACTORS FROM DEFINITION OF "EMPLOYMENT".

INTRODUCED AND REFERRED TO COMMITTEE ON LABOR AND
EMPLOYMENT: 1/21
HEARING: 2/3
REPORT: 2/11, DO PASS AS AMENDED
2ND READING: 2/13, AS AMENDED -- YEAS: 27; NAYS: 22
3RD READING: 2/16, YEAS: 27; NAYS: 21

TRANSMITTED TO HOUSE: 2/16
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 2/17

HEARING: 3/10

REPORT: BE CONCURRED IN, 3/12
ON MOTION, 3/18, PASSED CONSIDERATION TO THE 62ND LEGISLATIVE
DAY.

2ND READING: 3/20 YEAS: 66; NAYS: 33
3RD READING: 3/23 YEAS: 66; NAYS: 33

RETURNED TO SENATE: 3/23

TRANSMITTED TO GOVERNOR: 3/29
ACTION: 4/2, VETOED

SB 227 -- B. BROWN, YARDLEY, S. BROWN, ET AL -- GENERALLY REVISING THE GAMBLING LAWS...

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/21
HEARING: 2/9

ON MOTION, PLACED ON 2ND READING: 2/12, YEAS: 26; NAYS: 22
2ND READING: 2/14, YEAS: 22; NAYS: 25
ON MOTION, INDEFINITELY POSTPONED: 2/16, YEAS: 25; NAYS: 22 --
KILLED

SB 228 -- REGAN, OLSON -- AMENDING LAWS RELATING TO PAYMENT FOR FOSTER CARE AND REQUIRING COURT REVIEW.

INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH: 1/21
HEARING: 1/30
REPORT: 2/10, DO PASS AS AMENDED -- STATEMENT OF INTENT
ATTACHED
2ND READING: 2/12, DO PASS AS AMENDED
3RD READING: 2/14, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 2/14
REFERRED TO COMMITTEE ON HUMAN SERVICES: 2/16
HEARING: 3/9

REPORT: 3/13, BE CONCURRED IN, AS AMENDED
2ND READING: 3/19, YEAS: 80; NAYS: 11
3RD READING: 3/21, YEAS: 80; NAYS: 12

RETURNED TO SENATE WITH AMENDMENTS: 3/21
2ND READING: 3/24, BE CONCURRED IN
3RD READING: 3/26, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/3/81
ACTION: 4/8, SIGNED
CHAPTER 297

SB 229 -- TURNAGE, HAZELBAKER, MCBRIDE, ET AL -- PROVIDING FOR HYDROELECTRIC POWER GENERATION AT APPROPRIATE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WATER PROJECTS, ETC.

INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/21
HEARING: 2/2
REPORT: 2/16, DO PASS AS AMENDED
2ND READING: 2/19, AS AMENDED -- YEAS: 41; NAYS: 7
3RD READING: 2/23, YEAS: 46; NAYS: 4

TRANSMITTED TO HOUSE: 2/23
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 3/2
HEARING: 3/26
REPORT: 4/13, BE CONCURRED IN
2ND READING: 4/17, YEAS: 91; NAYS: 3

ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 66; NAYS: 29

RETURNED TO SENATE: 4/17

TRANSMITTED TO GOVERNOR: 4/21/81
ACTION: 4/23, SIGNED
CHAPTER 503

SB 230 -- HAGER, NILSON -- AMENDING 37-11-104 TO ALLOW PHYSICIAN THERAPISTS TO EVALUATE WITHOUT REFERRAL.

INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY: 1/22

HEARING: 1/28;

REPORT: 2/2, DO PASS AS AMENDED

2ND READING: 2/4, DO PASS

3RD READING: 2/6, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/6

REFERRED TO COMMITTEE ON HUMAN SERVICES: 2/7

HEARING: 3/6

REPORT: 3/12, BE CONCURRED IN, AS AMENDED

2ND READING: 3/19, YEAS: 91; NAYS: 6

3RD READING: 3/21, YEAS: 77; NAYS: 13

RETURNED TO SENATE WITH AMENDMENTS: 3/21

2ND READING: 3/24, BE CONCURRED IN

3RD READING: 3/26, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/30/81

ACTION: 4/2, SIGNED
CHAPTER 240

SB 231 -- ELLIOTT -- REVISING THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS, LICENSERS, AND ELIMINATING RESIDENCY REQUIREMENTS. . .

INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION: 1/22

HEARING: 2/5

REPORT: 2/10, DO PASS AS AMENDED

2ND READING: 2/20, DO PASS

3RD READING: 2/24, YEAS: 50

TRANSMITTED TO HOUSE: 2/24

REFERRED TO COMMITTEE ON TAXATION: 3/2

REPORT: 3/14, BE CONCURRED IN

2ND READING: 3/19, YEAS: 41; NAYS: 48

ON MOTION, 3/19, INDEFINITELY POSTPONED -- YEAS: 63; NAYS: 25

SEGREGATED: 3/19

ON MOTION, 3/19, REFERRED TO COMMITTEE ON TAXATION.

REPORT: 3/20, BE CONCURRED IN

2ND READING: 3/30, AS AMENDED -- YEAS: 85; NAYS: 7

3RD READING: 3/31, YEAS: 73; NAYS: 18

RETURNED TO SENATE WITH AMENDMENTS: 3/31

2ND READING: 4/3, BE CONCURRED IN

3RD READING: 4/4, YEAS: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/10/81

ACTION: 4/14, SIGNED
CHAPTER 359

SB 232 -- STIMATZ -- TO INCLUDE AN EMPLOYER'S ADMINISTRATIVE EXPENSES FOR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM IN THE EMPLOYER'S CONTRIBUTION RATE.

INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/22

HEARING: 2/9

REPORT: 2/9, DO PASS

2ND READING: 2/11, DO PASS

3RD READING: 2/13, YEAS: 50

TRANSMITTED TO HOUSE: 2/13

REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/14

HEARING: 3/20

REPORT: 3/10, BE CONCURRED IN, AS AMENDED

2ND READING: 3/19, YEAS: 86; NAYS: 4

3RD READING: 3/21, YEAS: 90; NAYS: 2

RETURNED TO SENATE WITH AMENDMENTS: 3/21

2ND READING: 3/24, BE CONCURRED IN

3RD READING: 3/26, YEAS: 45; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/30/81

ACTION: 4/3, SIGNED
CHAPTER 254

SB 233 -- HAFFERMAN, GRAHAM, MANLEY, ET AL -- AMENDING 32-5-394 TO ALLOW FOR THE USE OF MECHANICAL DATA PROCESSING EQUIPMENT FOR RECEIPTS GIVEN A CONSUMER LOAN BORROWER.

INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND

INDUSTRY: 1/22

HEARING: 2/2

REPORT: 2/3, DO PASS AS AMENDED

2ND READING: 2/5, DO PASS

3RD READING: 2/7, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/7

REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 2/9

HEARING: 3/6

REPORT: 3/6, BE CONCURRED IN

2ND READING: 3/9, YEAS: 77; NAYS: 0

3RD READING: 3/11, YEAS: 90; NAYS: 0

RETURNED TO SENATE: 3/11

TRANSMITTED TO GOVERNOR: 3/16/81

ACTION: 3/18, SIGNED
CHAPTER 84

SB 234 -- HAFFERMAN, S. BROWN, STIMATZ, ET AL -- AMENDING 39-4-107 TO ALLOW THE STATE TO ESTABLISH A 40-HOUR WORKWEEK CONSISTING OF 4 CONSECUTIVE 10-HOUR DAYS. . .

INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 1/22

HEARING: 2/6

REPORT: 2/9, DO NOT PASS

ADVERSE REPORT ADOPTED: 2/9 -- KILLED

SB 235 -- GALT, GRAHAM, GOODOVER, ET AL -- REQUIRING THE LEGISLATIVE COUNCIL TO PREPARE BALLOT ISSUE STATEMENTS RATHER THAN. . .

INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/22

HEARING: 2/12

SENATE BILL NO. 229

INTRODUCED BY TURNAGE, McBRIDE, HAZELBAKER,
B. BROWN, DOVER, TOWE

IN THE SENATE

January 21, 1981	Introduced and referred to Committee on Natural Resources.
February 16, 1981	Committee recommend bill do pass as amended. Report adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 19, 1981	Second reading, do pass as amended.
February 21, 1981	Correctly engrossed.
February 23, 1981	Third reading, passed. Ayes, 46; Noes, 4. Transmitted to House.

IN THE HOUSE

February 23, 1981	Introduced and referred to Committee on Natural Resources.
April 14, 1981	Committee recommend bill be concurrent in. Report adopted.
April 17, 1981	Second reading, concurrent in. On motion rules suspended and bill placed on third reading this day. Third reading, concurrent in. Ayes, 66; Noes, 29.

IN THE SENATE

April 17, 1981

Returned from House. Con-
curred in. Sent to enrolling.

Reported correctly enrolled.

1 *Sen* BILL NO. *229*
2 INTRODUCED BY *Turnage McBride* *Bob Brown*
3 *Don Davis*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
5 HYDROELECTRIC POWER GENERATION AT APPROPRIATE DEPARTMENT OF
6 NATURAL RESOURCES AND CONSERVATION WATER PROJECTS; PROVIDING
7 FOR THE LEASE OF SUCH PROJECTS FOR THE PURPOSE OF POWER
8 GENERATION; SPECIFICALLY AUTHORIZING THE CONSTRUCTION AND
9 OPERATION OF SUCH FACILITIES BY THE DEPARTMENT IF NO LEASE
10 IS CONSUMMATED; AND ESTABLISHING THE METHOD OF SALE OF POWER
11 GENERATED AT SUCH FACILITIES."

12
13 WHEREAS, the availability of energy from traditional
14 sources is diminishing; and

15 WHEREAS, the demand for energy from the state's
16 citizens is increasing, due to population growth and
17 economic expansion; and

18 WHEREAS, because of newly developing technology and
19 increasing energy costs, small-scale hydroelectric power
20 generation is becoming an economically feasible additional
21 source of energy; and

22 WHEREAS, the state of Montana currently owns and
23 controls many water projects which may have potential
24 capacity for the small-scale generation of hydroelectric
25 energy; and

1 WHEREAS, it is in the best interest of the people of
2 Montana to utilize Montana's water resources to the fullest
3 extent possible.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 Section 1. Survey of power generation capacity. The
7 department shall study the economic and environmental
8 feasibility of constructing and operating a small-scale
9 hydroelectric power generating facility on each of the water
10 projects under its control as of [the effective date of this
11 act], and shall periodically update such studies as the cost
12 of the electrical energy increases. In determining whether
13 small-scale hydroelectric generation may be economically
14 feasible on a particular project, the department shall
15 consider:

- 16 (1) the estimated cost of construction of a facility;
17 (2) the estimated cost of maintaining, repairing, and
18 operating the facility;
19 (3) the estimated cost of tying into an existing power
20 distribution channel;
21 (4) the ability of public utilities or rural electric
22 cooperatives to lease and operate such a facility;
23 (5) the debt burden to be serviced;
24 (6) the revenue expected to be derived; and
25 (7) the likelihood of a reasonable rate of return on

-2- INTRODUCED BILL

SB 229

1 the investment.

2 Section 2. Lease of sites to public utilities or
3 electric cooperatives -- first option. (1) If after
4 completion of the feasibility study of a particular project
5 the board determines that hydroelectric power generation at
6 the project would be feasible and in the best interest of
7 the people of the state of Montana, it shall publish notice
8 and make the site available for lease for the purpose of
9 small-scale hydroelectric power generation pursuant to
10 [sections 2 through 8].

11 (2) In issuing a notice of availability of a site for
12 lease under this section, the board shall include in the
13 notice any reasonable conditions it may find necessary in
14 order to protect the interests of the state.

15 Section 3. Receipt of applications. (1) Applications
16 for lease may be submitted by any public utility, as defined
17 in 69-3-101, or electric cooperative, organized under Title
18 33, chapter 13, that sells power to Montana customers or by
19 any Montana corporation proposing to use a substantial
20 portion of the electricity to be generated in its own
21 operation.

22 (2) The board shall consider only applications
23 received within 180 days after the final publication of the
24 notice.

25 (3) Applications must include a statement of the

1 capability of the applicant to achieve the annual production
2 output estimated by the department, the estimated time to
3 make the project operational, the bid amount of the royalty,
4 and any other information that the board requests.

5 Section 4. Determinations by the board. (1) Within a
6 reasonable time following the conclusion of the lease
7 application period, the board shall hold a hearing to
8 examine all applications that have been received for the
9 lease of the project.

10 (2) Within 180 days following the conclusion of the
11 lease application period, the board must reject any or all
12 applications or must award a lease to the party whose offer,
13 considered in its totality, is the most advantageous to the
14 state.

15 (3) The decision must include a determination that the
16 potential developer will provide an adequate royalty
17 payment, is capable of carrying out the proposed
18 development, can provide efficient and reliable service, and
19 intends in good faith without unnecessary delay to proceed
20 with the development.

21 Section 5. Lease conditions. (1) The lessee must pay a
22 royalty to the state as required in the lease.

23 (2) The board may authorize provisions in the lease
24 that offer economic incentives for rapid development of the
25 project or impose economic penalties for delays in

1 development, which may include cancellation of the lease.

2 Section 6. Compliance with federal law. If the project
3 must hold a license, permit, or exemption under federal law,
4 the license, permit, or exemption shall be held by the
5 department.

6 Section 7. Duration of lease. The term of the lease
7 may not exceed the term of the license, permit, or exemption
8 held by the department under [section 6] and may in no event
9 exceed 55 years.

10 Section 8. Duties of the department. The department
11 has primary responsibility for supervision of any such
12 lease. Any disputes that arise between the department and
13 the lessee may be appealed to the board, upon written
14 petition of either party.

15 Section 9. Power generation by department authorized.
16 (1) If no lease applications are received under [section 3]
17 or if the board rejects all lease applications under
18 [section 4], the department shall proceed to obtain any
19 necessary license, permit, or exemption under federal law
20 and shall commence construction and operation of a
21 small-scale hydroelectric generation facility pursuant to
22 the provisions of this chapter.

23 (2) Financing of construction and operation of the
24 facility shall be accomplished in a manner determined by the
25 board to be most feasible.

1 (3) The department may not sell power generated at a
2 facility except to a public utility or a rural electrical
3 cooperative, organized in Montana and selling power to
4 Montana customers.

5 Section 10. Sale of power. If the operator of a
6 small-scale hydroelectric generation facility under this
7 chapter and a public utility or an electric cooperative are
8 unable to mutually agree to a contract for the sale of
9 electricity or a price for the electricity purchased by the
10 utility or electric cooperative, the public service
11 commission shall require the utility or electric cooperative
12 to purchase the power under rates and terms established as
13 provided in [sections 11 through 13].

14 Section 11. Determination by the public service
15 commission. A determination of the rates and terms under
16 which the power must be purchased shall be made by the
17 public service commission upon petition of the facility
18 operator or a public utility or electric cooperative or
19 during a rate proceeding involving the review of rates paid
20 for electricity purchased from the facility. The commission
21 shall render a decision within 120 days from receipt of the
22 petition or before the completion of the rate review
23 proceeding. The rate and terms of the determination must be
24 according to the standards specified in [section 12].

25 Section 12. Standards for the determination. (1) The

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1 standards for the determination provided for in [section 11]
 2 by the public service commission shall include the
 3 following:

4 (a) Long-term contracts for the purchase of
 5 electricity by the utility or electric cooperative from a
 6 small-scale hydroelectric facility under this chapter shall
 7 be encouraged in order to enhance the economic feasibility
 8 of such facilities.

9 (b) The rates paid by a utility or electric
 10 cooperative to a small-scale hydroelectric facility may not
 11 exceed, over the term of the purchase contract, the
 12 incremental cost to the utility or electric cooperative of
 13 the electricity that, but for the purchase from the
 14 small-scale hydroelectric facility, the utility or electric
 15 cooperative would generate or purchase from another source.

16 (c) The rates to be paid by a utility or an electric
 17 cooperative for power purchased from a small-scale
 18 hydroelectric facility shall be established with
 19 consideration of the availability and reliability of the
 20 power produced.

21 (2) The commission may set these rates by use of any
 22 of the following methods:

23 (a) the levelized avoided cost over the term of the
 24 contract;

25 (b) the cost of production for the small-scale

1 hydroelectric facility plus a just and reasonable return; or

2 (c) any other method that will promote the development
 3 of small-scale hydroelectric facilities.

4 Section 13. Purchase of power by electric cooperative
 5 not agreeing to be bound by public service commission
 6 determination. If any electric cooperative wishing to
 7 purchase power from a small-scale hydroelectric facility
 8 under this chapter refuses to submit to the ratemaking
 9 authority of the public service commission established in
 10 [section 11], then the rate for such cooperative may be
 11 determined by the rural electrification administration upon
 12 petition by a rural electric cooperative or a generation and
 13 transmission cooperative. The facility shall sell power in
 14 accordance with such determination, so long as the rates and
 15 terms so established will allow the facility a reasonable
 16 return.

17 Section 14. Codification instruction. Sections 1
 18 through 13 are intended to be codified as an integral part
 19 of Title 85, chapter 1, and the provisions of Title 85,
 20 chapter 1, apply to sections 1 through 13.

-End-

MINUTES OF MEETING
SENATE NATURAL RESOURCES
February 2, 1981

The seventh meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Chairman, at 1:00 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 229:

AN ACT TO PROVIDE FOR HYDROELECTRIC POWER
GENERATION AT APPROPRIATE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION WATER
PROJECTS; PROVIDING FOR THE LEASE OF SUCH
PROJECTS FOR THE PURPOSE OF POWER GENERATION;
SPECIFICALLY AUTHORIZING THE CONSTRUCTION
AND OPERATION OF SUCH FACILITIES BY THE
DEPARTMENT IF NO LEASE IS CONSUMMATED; AND
ESTABLISHING THE METHOD OF SALE OF POWER
GENERATED AT SUCH FACILITIES.

Senator Turnage, District #46, presented this bill to the committee. He advised that the bill would require the Department of Natural Resources to make a study and report as to the possibility of developing hydroelectric generating facilities in state water projects. If the project seems feasible then a lease will be made out. The Department may not sell power generated at a facility except to a public utility or a rural electrical cooperative, organized in Montana and selling power to Montana customers. He requested Leo Barry, Department of Natural Resources, to testify on behalf of this bill and to present amendments.

Leo Barry, Department of Natural Resources, reviewed this bill and supports it as it will provide a reasonable approach to solving the need to repair some of the state owned projects to utilize existing hydroelectric capabilities on state owned projects. This does not mean that the Department of Natural Resources will plan to develop generating facilities on its own. Mr. Barry furnished written testimony and amendments proposed for this bill. (copy attached)

Bill Opitz, PSC, supports this bill with a request that it be amended on page 7, line 23 by striking the word "levelized" before the phrase "avoided cost".

There being no other proponents to this bill Chairman Dover asked for opponents.

Charles F. Crame, Montana Water Development Association, does not feel that the Department of Natural Resources should get into the generating business. He does not see how the Department can make a profit if private enterprise, who has been in the business for 50 years, does not feel they can make a profit.

Rod Hanson, Montana Associated Utilities, has some problems with the bill as it is written. He would like to look at this bill in conjunction with similar legislation that has been introduced in the House and Senate. There definitely needs to be a procedure for assuring feasibility before the department mandates to repair a plant.

Wilbur Anderson, Vigilante Electric Cooperative, Dillon, said that eight members of western Montana's generation cooperatives are fully in support of legislation that has been introduced in the house, which prohibits the state from going into generation projects. These projects can be developed by organizations that provide electrical service presently and who have responsibility for providing facility services to consumers in Montana.

There being no other opponents Chairman Dover asked for questions from the committee.

Senator Manley said that he thought a piece of legislation had been introduced last session that specifically stated that the state was not to be allowed to develop these plants and it was passed through the Senate, House and signed by the Governor.

Senator Brown said that is correct.

Senator Manley asked Senator Turnage that when he presented the bill he stated that if you strike the state out of the generating business, it would be better to kill the bill.

Senator Turnage said that nothing would be built unless the state is left in. The state would give private industry the incentive to keep up the dams. The state would only step in if they refused to keep up the dams.

Senator Dover asked how this project would be funded.

Senator Turnage said they could resort to any public financing available under the law. It couldn't be financed out of direct appropriation other than to make the study. Construction would be just like any private utility would do.

Senator Hafferman asked Senator Turnage if this wasn't a step toward socialism.

Senator Turnage said this is more a self help project.

Senator Keating asked after the study area is determined feasible and the area is offered to the cooperatives for development for the generation of electricity, and they decide it is not feasible, wouldn't you be suspect of a project if private operation turns it down.

Senator Turnage said the bill should say they may construct in this situation after legislative approval.

Senator Keating asked if the bill did say that the department could make that decision.

Senator Turnage suggested that they amend the bill to say they will seek legislative approval.

Senator Keating asked if the state does develop a generation plant and does have electricity for sale, the coops or utilities could be forced to take it by direction of the PSC.

Senator Turnage said that if they did not have this provision, they could effectively block the projects by refusing to accept energy.

Senator Keating asked if there was a provision in the bill for the Department to close a facility and dismantle it?

Senator Turnage said he assumed they could come to the legislature for authority.

Senator Keating asked Mr. Crame if there were areas of the state power department that would be desirable for generation of hydroelectricity.

Mr. Crame said the Clark Canyon and probably a great number of others.

Senator Keating asked where the private sector would get financing.

Mr. Crame said they could sell stocks and bonds.

Senator Keating asked if the rural electric coops could compete in this market, could they generate capital for the development of these dams.

Mr. Crame said they have the facilities to generate capital but they would have to go through procedures and red tape.

Senator Elliott questioned that there was not a fiscal note attached to the bill.

Senator Turnage said that he could ask for a fiscal note.

Senator Turnage closed by saying that the amendments suggested would be helpful to the bill, other than that the state be barred or taken out.

CONSIDERATION OF SB's 138, 139, 140 AND 196:

SB 138 - AN ACT PROVIDING FOR INDUSTRIAL
DEVELOPMENT PROJECT FINANCING OF SMALL-SCALE
HYDROELECTRIC FACILITIES

SB 139 - AN ACT TO AUTHORIZE THE SALE OF
ELECTRICITY FROM QUALIFYING SMALL POWER
PRODUCTION FACILITIES TO UTILITIES UNDER
RATES AND CONDITIONS MUTUALLY AGREED UPON
OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION

SB 140 - AN ACT TO CLASSIFY NEW QUALIFYING
SMALL POWER PRODUCTION FACILITIES AS CLASS
FIVE PROPERTY; INCREASING THE PERIOD OF CLASS-
IFICATION FOR PROPERTY USED IN THE PRODUCTION
OF GASOHOL

SB 196 - AN ACT TO MODIFY THE PENALTIES FOR
DAM BREACH

Chairman Dover turned the meeting over to Vice Chairman Etchart so that he could present these bills. Senator Dover explained that these bills were designed to provide incentive to develop Montana's renewable energy resources and are specifically directed toward small-scale hydro development. A copy of Senator Dover's written statement is attached.

Vice Chairman Etchart asked for proponents.

Bill Opitz, Public Service Commission, supports these bills but has prepared amendments to SB 139, copy attached. The amendments would give a small group of people the right to form a sort of cooperative of neighbors to distribute the electricity between themselves.

Leo Barry, Department of Natural Resources, supports these bills but questions the criteria of 80 megawatts. This is inconsistent with Montana laws, which defines a major operation as 50 megawatts.

Bob Fitzgerald, U. S. Windpower, supports these bills and would like "wind facilities" amended into SB 138, to be included with small scale hydroelectric facilities.

ROLL CALL

NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/2/81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott	✓		
Larry Tveit	<i>arrived late</i> ✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning	✓		
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

SENATE BILL 229

Testimony of the Department of Natural Resources and Conservation

AN ACT TO PROVIDE FOR HYDROELECTRIC POWER GENERATION AT APPROPRIATE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WATER PROJECTS...

The Department of Natural Resources and Conservation supports Senate Bill 229. This bill promotes the development of hydropower facilities on state-owned projects and provides a mechanism for that development. The bill would require us to lease our water projects to a public utility, rural electric cooperative or corporation. Only if lease bids were not received or, if bids were received and determined by the Board of Natural Resources not to be advantageous to the state, could the Department itself pursue construction of hydropower facilities. This preference for leasing sites rather than for Department construction is supported.

Department efforts to obtain funding to rehabilitate and maintain the state-owned water conservation projects resulted in an investigation of the potential for hydroelectric generation at these projects. The Department has made good progress in pursuing this development and feels that SB 229 will provide appropriate legislative direction to promote further hydroelectric projects in Montana.

The Department would propose four modifications to SB 229 that should assist in the implementation of this legislation.

1. On page 2, line 10, eliminate the language following the word control. If projects are disposed of in the future there would be no need to study them.

2. Section 9 (3), page 6, requires the sale of power to public utilities or rural electric cooperatives. Adding federal power marketing agencies after cooperatives, on line 3 would be beneficial to Montana power consumers. These federal agencies could average in the higher cost of power from the new hydropower projects with their existing lower cost power which could result in lower cost power to the consumer.
3. Section 9 (1), page, 5, should allow the department to defer hydroelectric projects if changing economic conditions indicate the project is no longer feasible.
4. Section 13, page 8, allows for a rate determination by the Rural Electrification Administration (REA). Based upon discussions with officials of the REA it is apparent that the REA does not provide a rate-setting function. The Public Utility Regulatory Policies Act (PURPA) delegates the rate-making authority for small power production facilities to the Federal Energy Regulatory Commission (FERC). To be consistent and to take advantage of FERC's existing authority and experience, I suggest that rural electrification administration on line 11, page 8, be replaced with federal energy regulatory commission.

NAME:

Bill Oritz

DATE:

2/2/81

ADDRESS:

2 Wood St

PHONE:

449-3007

REPRESENTING WHOM?

PSC

APPEARING ON WHICH PROPOSAL:

SB-229

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

The PSC supports the

passage of SB-229.

Amendment

Pg 7 line 23 strike

the word "levelized" before

the phrase avoided cost.

NAME: Philip Canine DATE: _____

ADDRESS: North VT

PHONE: 782-5528

REPRESENTING WHOM? North Water Res. Assoc.

APPEARING ON WHICH PROPOSAL: SL 229

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Emergency fund call for

emergency fund call for

organization

NAME:

Rod Hanson

DATE:

Feb 2, 1981

ADDRESS:

Fairfield, Ont. S9436

PHONE:

467-2526

REPRESENTING WHOM?

Montana Associated Utilities

APPEARING ON WHICH PROPOSAL:

S.B. 229

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

Rural electricians have problems with the bill as written - would like to look at it in conjunction with other similar legislation that has been introduced in the House and Senate.

Definitely need to provide some procedure for assuring feasibility before the department was mandated to construct a plant

Senator Elliott said subsection (c) takes care of this.

Senator Dover asked if the committee was against big business getting this break. If you are then we had better cut it back.

Senator Tveit said the bill is to help people, small power groups, to get more power plants.

Senator Keating said to leave it the way it is. If big business takes advantage of it, we can cut it down in two years.

Senator Etchart suggested that on page 4, line 16, following "capacity", the words "not greater than 50 megawatts," be inserted.

Senator Van Valkenburg so moved. The motion passed unanimously.

Senator Ryan made a motion that SB 140 do pass as amended. The motion passed unanimously.

DISPOSITION OF SB 229: Senator Hafferman made a motion to move the amendments.

Senator Brown said that if you adopt the amendments you are defeating the title of the bill which says "AUTHORIZING THE CONSTRUCTION AND OPERATION OF SUCH FACILITIES BY THE DEPARTMENT".

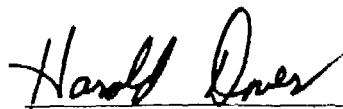
Senator Keating said in section 9 if no lease applications are received the Department may, upon legislative approval, proceed with construction.

Senator Dover said Katherine can fix the title to correspond with the body.

Chairman Dover asked for opposition to the motion on amendments. Senator Brown, Senator Van Valkenburg and Senator Ryan voted no on amendments numbered 2, 3, 4, & 6. Senator Hafferman voted no on amendment number 3. The motion passed.

Senator Keating made a motion that SB 229 do pass as amended. The motion passed with a vote of 8 for, 3 opposed. Senator Ryan, Senator Brown and Senator Van Valkenburg voted no on this bill.

ADJOURNMENT: There being no further business, the meeting adjourned at 2:30 P.M.



HAROLD DOVER, Chairman

ROLL CALL

NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/13/81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott	<i>arrived late</i> ✓		
Larry Tveit	✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning		✓	
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

February 13, 1981

PROPOSED AMENDMENTS TO SB 229

1. Page 2, lines 10 and 11.

Following: "control"

Strike: "as of [the effective date of this act],"

2. Page 4, line 20.

Following: line 20

Insert: "(4) If all lease applications are rejected, the department may not construct a facility on its own"

3. Page 5, lines 17 and 18.

Strike: "or if the board rejects all lease applications under [section

4. Page 5, line 18.

Following: "department"

Strike: "shall"

Insert: "may upon approval of the legislature"

5. Page 5, line 20.

Following: the first "and"

Strike: "shall"

6. Page 5, line 22.

Following: "chapter."

Insert: "Construction may not commence until such time as the board has presented clear and convincing evidence to the legislature that construction by the department is economically feasible and is the most practical means by which the facility could be developed."

7. Page 6, line 2.

Following: "utility"

Strike: "or"

Insert: ", "

8. Page 6, line 3.

Following: "cooperative,"

Insert: "or a federal power-marketing agency"

9. Page 8, lines 11 through 13.

Following: "the"

Strike: "rural electrification administration upon petition by a rural electric cooperative or a generation and transmission cooperative"

Insert: "federal energy regulatory commission upon proper petition"

STANDING COMMITTEE REPORT

February 13, 1931

MR. **PRESIDENT**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **229**

Respectfully report as follows: That **SENATE** Bill No. **229**

be amended as follows:

1. Title, line 10.

Following: "LEASE" on line 9

Strike: "IS CONSUMMATED"

Insert: "APPLICATIONS ARE RECEIVED AND PROHIBITING CONSTRUCTION BY
THE DEPARTMENT IF ALL LEASE APPLICATIONS ARE REJECTED BY THE BOARD"

2. Page 2, lines 10 and 11.

Following: "control"

Strike: "as of, [the effective date of this act],"

3. Page 4, line 21.

Following: line 20

Insert: "(4) If all lease applications are rejected, the department
may not construct a facility on its own."

~~XXXXXX~~

(continued)

February 13,

81

19.....

4. Page 5, lines 17 and 18.

Following: "[section 3]" Line 16

Strike: "or if the board rejects all lease applications under
[section 4],"

5. Page 5, line 18.

Following: "department"

Strike: "shall"

Insert: "may upon approval of the legislature"

6. Page 5, line 20.

Following: the first "and"

Strike: "shall"

7. Page 5, line 22.

Following: "chapter."

Insert: "Construction may not commence until such time as the departmen
has presented clear and convincing evidence to the legislature that
construction is economically feasible and is the most practical means
by which the facility could be developed."

8. Page 6, line 2.

Following: "utility"

Strike: "or"

Insert: ", "

9. Page 6, line 3.

Following: "cooperative,"

Insert: "or a federal power-marketing agency"

10. Page 8, lines 11 through 13.

Following: "the" on line 11

Strike: "rural electrification administration upon petition by a
rural electric cooperative or a generation and transmission
cooperative"

Insert: "federal energy regulatory commission upon proper petition"

And, as so amended
DO PASS

O.A.

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
MARCH 26, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Thursday, March 26, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and thirteen members present (REPS. SALES, BERTELSEN, QUILICI, and NEUMAN were excused and REP. NORDTVEDT was absent).

CHAIRMAN IVERSON opened the hearing on SB 229.

SENATE BILL 229 SENATOR JEAN TURNAGE, chief sponsor, presented the bill which would provide for hydroelectric power generation at certain water projects operated by the Department of Natural Resources. It would provide for the lease of such projects for the purpose of power generation and authorize the construction and operation of such facilities by the department. This bill will focus attention on hydroelectric projects. It would be preferable to leasing the dam sites to either private individuals or R. E. A. operations.

Speaking as a proponent was LEO BERRY, Director of the Department of Natural Resources, who supported the concept of water development on private property. Lease agreements to private individuals and R. E. A.'s are preferred by the department.

REP. KATHLEEN MCBRIDE supported the bill. She stated that there is a lot of potential energy going over the dam and it should be tapped.

CHARLIE CRANE, Montana Water Developers Association, supported the bill but with some qualifications. He felt the language on page 6, line 8 should be reinserted because clear and convincing evidence must be submitted to someone and perhaps it should be the legislature.

DON JOHANNSEN, National Farm Organization, supported the bill.

There were no OPPONENTS.

SENATOR TURNAGE closed on the bill saying it is an enabling mechanism to get the process started. Using a revenue bond could be one form of financing.

During questions from the committee, REP. ROTH asked REP. MCBRIDE if this is a duplication of a bill of hers. The answer was that there are some similar qualities but that hers offers more guidance to the Department of Natural Resources.

REP. COZZENS asked MR. BERRY if this action would require additional staffing in the department. And, how many sites are involved. The answer was that the staff is available but feasibility studies require money. The state currently owns about 40 dams but fewer than 10 would qualify under this type of program.

Natural Resources
March 26, 1981
Page 2

The hearing on SB 229 closed and one on SB 138 opened.

SENATE BILL 138 SENATOR HAROLD DOVER, chief sponsor, presented the bill which would provide for industrial development project financing of small-scale hydroelectric facilities. This could provide the incentive to create power supplies in Montana. The Senate amendments make it more compatible with the environment and that is beneficial to everyone. It tries to avoid environmental impact in areas not already in use. It could also eliminate the high cost of constructing new dams. It is a reasonable type of power but financing is a problem.

LEO BERRY, Director of the Department of Natural Resources, supported the bill.

ANNE WILSNACK, A. E. R. O., supported the bill with the Senate amendments.

MARGARET MACDONALD, Northern Plains Resource Council, supported the bill. Her one concern was that 50 megawatts is still a large facility. She felt 30 or less is considered small.

SENATOR DOVER closed on the bill.

During questions from the committee, REP. COZZENS asked what difference it makes whether a dam is considered large or small. MS. MACDONALD replied that the difference can be great and that small scale should be defined.

The hearing on SB 138 closed and one on SB 139 opened.

SENATE BILL 139 SENATOR HAROLD DOVER, chief sponsor, presented the bill which would allow the sale of electricity from qualifying small power production facilities to utilities under rates and conditions mutually agreed upon by the Public Service Commission or electric cooperatives upon mutual agreement and in compliance with PURPA. Montana needs to comply with federal regulations. This would help in compliance as well as establish rates. SENATOR DOVER proposed one amendment to add on page 2, line 7, "other than electric power from a small power production facility".

LEO BERRY, Director of the Department of Natural Resources, supported the bill with the amendment, as did ANNE WILSNACK and MARGARET MACDONALD.

There were no OPPONENTS.

SENATOR DOVER closed on the bill.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SB 229

Date 3/26/81

SPONSOR TURNAGE

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Natural Resources
March 28, 1981
Page 2

REP. BROWN then moved BE CONCURRED IN AS AMENDED.

REP. CURTISS stated that this refers to earmarked funds and she was concerned about the legislative oversight which should be required.

REP. BROWN said the main concern of the bankers was that the state was trying to get into the lending business.

REP. COZZENS stated that he was concerned about the openendedness this bill gives to the Department of Natural Resources. It will give them the authority to do the lending.

CHAIRMAN IVERSON explained that there is a standard language used that grants rule-making authority and that the Administrative Procedures Act is also used.

The motion PASSED with REPS. CURTISS, SALES, MUELLER, NORDTVEDT, BERTELSEN, COZZENS, and NEUMAN opposing.

SENATE BILL 229 REP. CURTISS moved that the stricken language on page 6 be reinserted. She felt if there is evidence, it should be presented to the legislature.

REP. BROWN objected saying that would stop the department until the legislature meets. The department should be able to do the work necessary.

REP. CURTISS replied that under the present process there are hearings that take time and that there would be adequate time to present it to the legislature.

The motion on the amendment failed with REPS. IVERSON, MUELLER, ASAY, BERTELSEN, HUENNEKENS, KEEDY, SHELDEN, BROWN, ABRAMS, NEUMAN, and HART opposing.

MS. SCHMIDT explained that REP. KATHLEEN MCBRIDE'S bill uses similar procedures but is silent on the generation by the Department of Natural Resources. This bill provides the procedure the department must follow.

REP. MUELLER moved the bill BE CONCURRED IN.

REP. SHELDEN stated that the bill does not say the state will go into the power generation business but rather that it would have the option to do so. The state has considerable interest in these projects and should get the best possible results from them.

Natural Resources

March 28, 1981

Page 3

The motion BE CONCURRED IN failed with REPS. IVERSON, CURTISS, SALES, NORDTVEDT, ASAY, HARP, COZZENS, QUILICI, KEEDY, BROWN, ABRAMS, NEUMAN, and HART opposing.

REP. BROWN moved the motion be reversed to BE NOT CONCURRED IN with REPS. MUELLER, BERTELSEN, ROTH, HUENNEKENS, and SHELDEN opposing.

The meeting adjourned at 1:30 p.m.

Respectfully submitted,


DENNIS IVERSON, CHAIRMAN

Ellen Engstedt, Secretary

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
APRIL 13, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Monday, April 13, 1981, at 1:00 p.m. with CHAIRMAN DENNIS IVERSON presiding and eleven members present (REPS. SALES, NORDTVEDT, ROTH, COZZENS, QUILICI, KEEDY, and NEUMAN were excused).

CHAIRMAN IVERSON opened the hearing on HJR 66.

HOUSE JOINT RESOLUTION 66 REP. DAVE BROWN, chief sponsor, presented the resolution which requests that an appropriate interim committee be assigned to determine the most effective means of responding to social and economic impacts resulting from the increased development of hard-rock minerals. He stated that there is not a question that something must be done soon to address this problem.

Speaking as a proponent was REP. ORVAL ELLISON. He said that the situation in Anaconda with the plant closing has indicated even more the needs to be addressed in areas with industry.

There were no OPPONENTS.

REP. BROWN closed on the resolution. He asked that two amendments be added. One was correcting a clerical error and the other added on page 3, line 14 "through severance taxes or other sources".

During questions from the committee, REP. CURTISS asked if this study could be combined with any other. REP. ELLISON felt this one would take a full-time committee.

The hearing on HJR 66 closed.

EXECUTIVE SESSION HOUSE JOINT RESOLUTION 66 REP. BROWN moved that the two amendments be inserted. The motion PASSED.

REP. BROWN then moved the bill DO PASS AS AMENDED. It PASSED unanimously.

SENATE BILL 229 REP. MUELLER moved that the committee suspend the rules and reconsider SB 229. The motion PASSED with REPS. BROWN and HARP opposing.

REP. MUELLER then moved the bill BE CONCURRED IN. It PASSED with REPS. BURNETT and HARP opposing.

SENATE BILL 199 REP. CURTISS moved to reconsider. She further stated that she would resist any attempt to amend the bill.

The motion PASSED with REPS. HART, HUENNEKENS, BERTELSEN opposing.

REP. CURTISS then moved the bill BE CONCURRED IN. She stated that there is a problem in the area and this bill will allow the depart-